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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,160	03/13/2002	Alexander Kozak	800.1015	2914

23280 7590 09/02/2003

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EXAMINER

FORD, JOHN M

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 09/02/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/088/60

Applicant(s)

Examiner

J.M. Ford

Group Art Unit

1624

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on August 1, 2007
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1--16 and 18--30 is/are pending in the application.
- ☐ Of the above claim(s) 3--5, 9, 13 and 18--30 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 2, 6--8, 12, 14, 15, 16 is/are rejected.
- ☒ Claim(s) 10 and 11 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

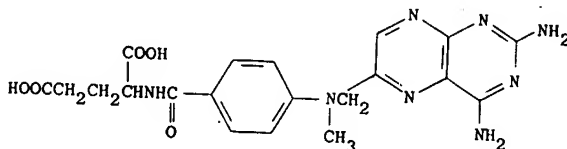
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Applicants' response and election of

August 1, 2003, *is noted.*

The claims in the application are claims 1—16 and 18—30.

Applicants elected claims 1—11 with D being methotrexate.



How is it connected? Through which acid function?<sup>2</sup> The formula for methotrexate need be employed for D, combined into formula I.

What is a phospholipid head group in claim 1 in R2. Accordingly, claim 1 is rejected under 35 U.S.C. 112, 2<sup>nd</sup> paragraph.

Claim 1 is too burdensome to examine without specifying the variables. Accordingly, claims 2—5 stand withdrawn, *pending clarification.*

Claim 2 need be cancelled and combined into claim 1.

Claims 6—8 are rejected solely as they are dependent <sup>on</sup> rejected claims.

Claims 9, 13 and 30 stand withdrawn as being directed to non-elected subject matter.

Claims 10 and 11 are objected to as their exact chemical structure *is unclear.*  
*Please provide chemical structure.*

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The treatment of inflammation is recommended as an establishable, believable, utility.

Treating controlled cell growth would be very difficult to prove, and not acceptable on its face under 35 U.S.C. 112, 1<sup>st</sup> paragraph.

This is <sup>371</sup> application. 37 CFR 1.475 makes it clear that applicant may have one use of their compounds examined with the elected compounds.

Applicants have not amended their method claims to one, therefore, they stand withdrawn.

Claims 12, 14, 15, 16 are rejected as being dependent on a rejected claim

Applicants cannot also elect claim 30, as that would be two methods. In addition, the making of a composition in claim 30, is notoriously old and known since the time of ~~Alchemists~~ working in caves. See any of the art of record. MPEP 806.05(h) provides for restricting the method claims out, altogether, where the compounds may be used for more than one purpose. Claims 18—30 allege more than one use.

Applicants may not petition the restriction requirement, at this point, as it has not been made Final; 37 CFR 1.144. This is a work in progress as to what the Final claims will be. Nothing has been made ~~de~~ Final at this point.

In regard to claim 13, the agreement to examine one compound invention and one method of use is dependent on their being of the same scope. 13 is not of the same scope, as it has an additional unknown anti-neoplastic agent. ~~The~~ claim would be classified in a different search area, than the methotrexate elected here, as additional active ingredient claims are separately classified and searched. Therefore, there would be no way to determine if claim 13 were ~~patentable~~ without considerable amendment and additional searches.

 JOHN M. FORD  
PRIMARY EXAMINER  
GROUP - ART UNIT 1624